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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2009 DEC 23 A 11: 54

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
WICKENBURG RANCH WATER, LLC
(FORMERLY CDC WICKENBURG WATER,
LLC) FOR APPROVAL OF A RATE
ADJUSTMENT.

DOCKET NO. W-03994A-07-0657

**STAFF'S RESPONSE TO
APPLICANT'S SEPTEMBER 25, 2009
MOTION**

On September 25, 2009, Applicant Wickenburg Ranch Water, LLC ("Wickenburg Ranch" or "Company") filed a motion requesting that the Arizona Corporation Commission ("Commission") modify Decision No. 70741 (February 12, 2009) pursuant to either A.R.S. § 40-252 or -253. The basis for the request was that the Company believed the potential existed for a resolution to issues raised by the Company's February 26, 2009 application for rehearing of Decision No. 70741. The application for rehearing was granted by Decision No. 70832 (March 16, 2009) and evidentiary proceedings were held on June 15, 2009 and June 29, 2009. On August 11, 2009 the Commission voted in a Commission Staff Open Meeting to reopen Decision No. 70741 under A.R.S. § 40-252 and stay additional proceedings in the docket in order for parties to discuss alternative proposals to the contested provisions of Decision No. 70741. A procedural order was issued on August 12, 2009 that stayed proceedings in this docket.

In Wickenburg Ranch's September 25 filing, the Company suggested changes to the language in Decision No. 70741. Further, the Company referenced the implementation of ten Best Management Practices ("BMP") that were proposed in the Company's July 31, 2009 Notice of Compliance Action Regarding Best Management Practices. Wickenburg Ranch's July 31 filing outlined the following BMPs:

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Arizona Corporation Commission

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1 1. (2.3) New homeowner Landscape Information

2 The Company will make low water use landscape information packets
3 available to all new owners of newly constructed homes, either through direct
4 distribution (mail or delivery) or through delivery by the home builder. The
5 Company will also notify new owners of existing homes (resale) that
6 information on low water use landscaping is available and will provide such
7 information on request.

8 2. (3.6) Customer High Water- Use Inquiry Resolution

9 The Company will assign a designee(s) to assist customers with their high
10 water-use complaints. The program will include site inspection when
11 warranted to discover the cause of an increase in a customer's water bill. The
12 Company will follow up in some way on every customer inquiry and keep a
13 record of inquiries and follow-up activities.

14 3. (3.7) Customer High Water Use Notification

15 The Company will monitor customers for high water use, as determined by
16 comparing the customers' previous water usage and water use by other
17 similarly situated customers. The Company will contact any high water use
18 customers via telephone, by email, by mail or in person and will provide such
19 customers information on water savings devices, techniques, and rebate
20 programs as appropriate. The type of notification and the criteria used for
21 determining which customers are notified will be recorded in' writing.

22 4. (3.8) Water Waste Investigations and Information

23 The Company will assign a designee(s) to assist customers with water waste
24 complaints. A complaint investigation would typically include a site
25 inspection and some type of follow-up action, such as education of the
26 customer to prevent water waste. The Company will follow-up in some way
27 on every water waste complaint and keep a record of complaints and follow-
28 up activities.

29 5. (4.1) Leak Detection Program

30 The Company will implement a systematic evaluation of its water distribution
31 system to identify and fix leaks. The Company will implement this program
32 throughout its service area unless the Company reasonably concludes that
33 targeting certain portions of their water service area is likely to yield the
34 highest potential water savings.

35 6. (4.2) Meter Repair and/or Replacement Program

36 The Company will implement a program to systematically assess the meters in
37 its water service area to identify under-registering meters and to repair or
38 replace them.

1 7. (5.2) Water System Tampering

2 Pursuant to A.R.S. 3 40-492, et al., the Company may bring an action for
3 damages or to enjoin any activity against a person who: (1) makes a
4 connection or reconnection with property owned or used by the Company to
5 provide utility service without the Company's authorization or consent; (2)
6 prevents a Company meter or other device used to determine the charge for
7 utility services from accurately performing its measuring function; (3) tampers
8 with property owned or used by the Company; or (4) uses or receives the
9 Company's services without the authorization or consent of the Company's
10 and knows or has reason to know of the unlawful diversion, tampering or
11 connection. If the Company's action is successful, the Company may recover
12 as damages three times the amount of actual damages.

13 8. (7.3) Evaluation of New and Emerging Technologies and Practices

14 The Company will conduct a systematic evaluation of conservation measures
15 already implemented as well as state of the art water conservation
16 technologies and techniques. Each year the Company will research and
17 review new technologies and practices and draft a conservation technology
18 and practice report stating the objectives of the evaluation, methods used to
19 conduct the evaluation, and results of the investigation.

20 9. (7.5) Implementation of Smart Irrigation Technology

21 The Company will conduct a systematic evaluation of smart irrigation
22 technology already implemented as well as new related technologies. The
23 Company will draft an annual report briefly describing the project location,
24 implementation methods, and estimates of irrigation efficiency or water
25 savings, as appropriate.

26 In satisfaction of the tenth BMP requirement, the Company provided a rainwater catchment tariff that
27 was described in the Notice of Compliance Action Regarding Water Service Tariffs filed on July 31,
28 2009.

29 Commission Utilities Division Staff ("Staff") has reviewed the ten BMPs proposed by the
30 Company. Based on its evaluation, Staff recommends that the following modifications would be
31 appropriate. Staff believes that the Company should be allowed to use two BMPs from Category 2,
32 Conservation and Education rather than one. Staff recommends elimination of BMPs 7.3 (Evaluation
33 of New and Emerging Technologies and Practices) and 7.5 (Implementation of Smart Irrigation
34 Technology).

35 Staff recommends that BMP 2.3 (New homeowner Landscape Information) be modified to
36 require that the low water use landscaping literature be provided to all new customers. Likewise,
37 Staff believes that the Company should not be required to institute a rainwater catchment tariff.

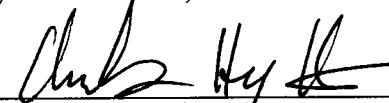
1 However, Staff recommends that the Company be required to provide educational pamphlets to new
2 customers to inform customers on how to implement a rainwater catchment system.

3 Staff further recommends the addition of BMP 5.5 (tariff for model home landscapes in new
4 residential developments) which would require that companies building homes within Wickenburg
5 Ranch's service territory use low water landscaping on model homes. Under this BMP, the Company
6 would be required to file a tariff for Commission approved rates for the provision of water service to
7 model homes.

8 Finally, Staff recommends that the Company be required to file a xeriscape landscaping tariff
9 that requires, as a condition of service, all new customers to designate a set percentage of either their
10 front or back yard, or some portion of both for the use of xeriscape landscaping. Such a requirement
11 would correspond to BMP 5.1 (low water use landscaping requirements for residential, multi-family,
12 non-residential and/or common areas).

13 Staff has discussed Staff's recommendations with the Company and the Company has
14 expressed no objections to the recommendations. Therefore, Staff respectfully requests that the ALJ
15 issue a recommended opinion and order ("ROO") adopting the modifications to Decision No. 70741
16 that Staff recommends as discussed herein. The ROO should require the Company to submit a tariff,
17 for Commission consideration, for each of the ten (10) BMPs. For the convenience of the ALJ, these
18 modifications are attached as Exhibit A to this pleading.

19 RESPECTFULLY submitted this 23rd day of December, 2009.

20
21 
22 Charles H. Hains, Attorney
23 Kevin O. Torrey, Attorney
24 Legal Division
25 1200 West Washington Street
26 Phoenix, Arizona 85007
27 (602) 542-3402

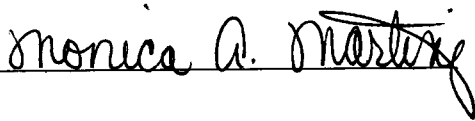
28 Original and thirteen (13) copies
of the foregoing were filed this
23rd day of December, 2009 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

1 Copy of the foregoing mailed
this 23rd day of December, 2009 to:

2 Steve Wene, Esq.
3 MOYES SELLERS & SIMS LTD.
1850 North Central Avenue, Suite 1100
4 Phoenix, Arizona 85004

5 William Brownlee
David Green
6 WICKENBURG RANCH WATER, LLC
c/o M3 Builders
7 4222 East Camelback, H100
Phoenix, Arizona 86018

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
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8 IN THE MATTER OF THE APPLICATION OF
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12 ADJUSTMENT.

DOCKET NO. W-03994A-07-0657

13
14 **Exhibit A**

15
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17 **To Staff's Response**
18 **To Applicant's September 25, 2009 Motion**
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28

December 23, 2009

1 **DELETE at page 8, lines 2-8:**

- 2 18. Although Wickenburg Ranch is located outside an Active Management Area, it
3 should nonetheless be required to comply with some of the conservation goals and
4 management practices of the Arizona Department of Water Resources ("ADWR").
5 We will require Wickenburg Ranch to implement, within 90 days of the effective date
6 of this Decision, at least 10 Best Management Practices ("BMP") (as outlined in
7 ADWR's Modified Non-Per Capita Conservation Program). Only one of these
8 BMP's shall come from the "Public awareness/PR or Education and Training
9 categories of the BMPs.

8 **INSERT at page 8, line 2:**

- 9 18. Although Wickenburg Ranch is located outside an Active Management Area, it
10 has pledged to implement certain conservation goals and management practices of the
11 Arizona Department of Water Resources ("ADWR"). Wickenburg Ranch will submit,
12 for Commission consideration, at least 10 Best Management Practices ("BMP") (as
13 outlined in ADWR's Modified Non-Per Capita Conservation Management Program).
14 Two of these BMPs may come from the Conservation Education and Training
15 category of the BMPs. The Company will provide to all new customers information
16 on (1) low water use landscaping as well as (2) how to implement a rainwater
17 catchment system.

15 **DELETE at page 8, lines 9-20:**

- 16 19. Because the developer in this case has insisted on building a golf course prior
17 to the availability of effluent for the irrigation of that golf course, and because the
18 Commission has becoming increasingly concerned with the prolonged drought in
19 Central Arizona, we believe it is in the public interest to require, as a compliance item
20 in this case, the Company to file appropriate tariffs for Commission consideration that
21 would condition the provision of water service to any customer on the implementation
22 of full xeriscape landscaping in front yards, as well as the installation of rainwater
23 catchment systems. These tariffs shall contain, at a minimum, the requirements for
24 implementing such a condition of service, details of the estimated costs to the
25 Company, if any, associated with implementation of the condition of service, proposed
26 customer fees and charges, and any other information that Wickenburg Ranch believes
27 would assist the Commission in evaluating these tariffs. These tariffs shall also
28 demonstrate compliance with all applicable requirements of ADEQ and any
applicable local codes.

25 ...

26 ...

27 ...

28 ...

1 **INSERT at page 8, line 9:**

- 2 19. Because the Commission has become increasingly concerned with the
3 prolonged drought in Central Arizona, we believe it is in the public interest to require
4 the Company to file a xeriscape landscaping tariff that requires, as a condition of
5 service, all new customers to designate a set percentage of either their front or back
6 yard, or some portion of both, for the use of xeriscape landscaping which would
7 correspond to ADWR BMP 5.1. Additionally, the Company shall file a tariff for
provision of water service to model homes that requires, as a condition of service that
companies building homes within Wickenburg Ranch's service territory use low water
landscaping on model homes.

8 **DELETE at page 20, lines 22-26:**

9 IT IS FURTHER ORDERED that Wickenburg Ranch Water, LLC, shall
10 implement, within 90 days of the effective date of this Decision, at least 10 Best
11 Management Practices (as outlined in ADWR's Modified Non-Per Capita
12 Conservation Program) and submit those Best Management Practices to Docket
13 Control within 90 days of the effective date of this Order. Only one of these BMPs
shall come from the "Public awareness/PR or Education and Training categories of the
BMPs.

14 **INSERT at page 20, line 22:**

15 IT IS FURTHER ORDERED that Wickenburg Ranch Water, LLC, shall
16 submit, for Commission consideration, within 90 days of the effective date of this
17 Decision proposed tariffs for the 10 Best Management Practices that it filed in this
18 Docket on July 31, 2009, as modified by the Staff recommendations filed on
December 23, 2009.